

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SHAWN ALEXANDER POWELL,

Plaintiff,

v.

DAVID E. ORTIZ, et al.,

Defendants.

1:20-cv-00593-NLH-SAK

MEMORANDUM
OPINION AND ORDER

APPEARANCE:

SHAWN ALEXANDER POWELL
70439-056
FAIRTON
FEDERAL CORRECTIONAL INSTITUTION
P.O. BOX 420
FAIRTON, NJ 08320

Plaintiff *pro se*

HILLMAN, District Judge

WHEREAS, this matter was brought by Plaintiff, Shawn Alexander Powell, who was a federal prisoner previously incarcerated at FCI Fairton and FCI Fort Dix, New Jersey,¹ alleging deliberate indifference to his medical needs under Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971) and Carlson v. Green, 446 U.S. 14 (1980)

¹ As discussed below, Plaintiff is no longer incarcerated at FCI Fairton, but he has failed to provide the Court with his updated address. The Bureau of Prisons inmate locator shows that Plaintiff is now incarcerated in FCI Terre Haute.

arising from four skin abscesses he suffered in December 2016 through March 2018 while at FCI Fort Dix; and

WHEREAS, on June 28, 2021, the Court denied two motions for injunctive relief and another miscellaneous motion filed by Plaintiff (Docket No. 18, 19); and

WHEREAS, this Court also found that it had been over eight months since the Court permitted Plaintiff's Eighth Amendment violation claims to proceed, and Plaintiff had not returned USMS 285 Forms for nine named defendants (M. Grissom, J. Wilk, Nicoletta Turner-Foster, E. Fletcher, G. Martin, J. Watt, Ms. Tucker, J. Suero, and Counselor T. Jones), and therefore they had not been served with Plaintiff's complaint; and

WHEREAS, the Court ordered Plaintiff to show cause within 20 days as to why his claims against Defendants M. Grissom, J. Wilk, Nicoletta Turner-Foster, E. Fletcher, G. Martin, J. Watt, Ms. Tucker, J. Suero, and Counselor T. Jones should not be dismissed without prejudice for lack of service pursuant to Fed. R. Civ. P. 4(m);² and

² Under Fed. R. Civ. P. 4(m), "if a defendant is not served within 90 days after the complaint is filed, the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period."

WHEREAS, on September 2, 2021, the Clerk received notice that the mail containing this Court's June 28, 2021 Opinion and Order were undeliverable because Plaintiff had not been at FCI Fairton since May 19, 2021 (Docket No. 20); and

WHEREAS, pursuant to L. Civ. R. 10.1(a), litigants have an affirmative duty to inform the Court of their current address and to inform the Court of any changes in the same within seven days; and

WHEREAS, Plaintiff has failed to comply with this basic requirement; and

WHEREAS, any filing which fails to meet the requirements of L. Civ. R. 10.1(a) is subject to being struck by the Clerk; but

WHEREAS, according to the Federal Bureau of Prisons Inmate Locator, during the pendency of Plaintiff's case, Plaintiff was transferred from FCI Fairton to FCI Terre Haute;

Consequently,

IT IS HEREBY on this 27th day of September, 2021

ORDERED that Plaintiff shall have 30 days from the date of this Order to comply with Local Civil Rule 10.1 and update the Court with his current mailing address; and it is further

ORDERED that if Plaintiff fails to comply with Local Civil Rule 10.1 and update the Court with his current mailing address, the above-captioned action will be dismissed for his failure to prosecute and to comply with L. Civ. R. 10.1; and it is further

ORDERED that if Plaintiff complies with this Order, he shall be afforded twenty days thereafter to respond to the Court's June 28, 2021 Order to Show Cause; and it is further

ORDERED that the Clerk of the Court shall mail a copy of this Order, as well as a copy of the Court's June 28, 2021 Opinion and Order (Docket No. 18, 19) to Plaintiff at the following address:

SHAWN ALEXANDER POWELL
70439-056
FCI TERRE HAUTE
FEDERAL CORRECTIONAL INSTITUTION
P.O. BOX 33
TERRE HAUTE, IN 47808

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.